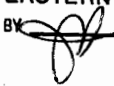


FILED

APR 03 2020

CLERK, U.S. DISTRICT COURT
EASTERN DISTRICT OF CALIFORNIABY  DEPUTY CLERKEVERETT L. SPILLARD II BG2590

Name and Prisoner/Booking Number

CALIFORNIA MEDICAL FACILITY

Place of Confinement

P.O.Box 2500 Vacaville, CA 95696

Mailing Address

Vacaville, CA 95696 U-101

City, State, Zip Code

(Failure to notify the Court of your change of address may result in dismissal of this action.)

IN THE UNITED STATES DISTRICT COURT
FOR THE EASTERN DISTRICT OF CALIFORNIAEVERETT L. SPILLARD II

(Full Name of Plaintiff)

Plaintiff,

v.

CASE NO.

2:20-cv-0702 CKD
(To be supplied by the Clerk) (PC)(1) CAPTAIN COSTA

(Full Name of Defendant)

(2) LVN UMANAH

DR. BICK

(3)

(4) DR. SHUTE

Defendant(s).

☒ Check if there are additional Defendants and attach page 1-A listing them.CIVIL RIGHTS COMPLAINT
BY A PRISONER☒ Original Complaint☐ First Amended Complaint☐ Second Amended Complaint

A. JURISDICTION

1. This Court has jurisdiction over this action pursuant to:

☒ 28 U.S.C. § 1343(a); 42 U.S.C. § 1983☒ 28 U.S.C. § 1331; Bivens v. Six Unknown Federal Narcotics Agents, 403 U.S. 388 (1971).☒ Other: CIVIL RIGHTS VIOLATIONS VIII/XIIII ADA and Rehabilitation Act.
And my First Amendment right of no retaliation.2. Institution/city where violation occurred: Jackson and Salono and Marin but the CDQR is
in Sacramento County along with the CCHCS

B. DEFENDANTS

1. Name of first Defendant: LVN Margeret Umanah. The first Defendant is employed as:
LVN at Mule Creek State Prison.
(Position and Title) (Institution)
2. Name of second Defendant: Captain Costa. The second Defendant is employed as:
Captain at Mule Creek State Prison.
(Position and Title) (Institution)
3. Name of third Defendant: Dr. Smith. The third Defendant is employed as:
Head Doctor at Mule Creek State Prison.
(Position and Title) (Institution)
4. Name of fourth Defendant: Dr. Shute. The fourth Defendant is employed as:
Doctor PCP at California Medical Facility.
(Position and Title) (Institution)

If you name more than four Defendants, answer the questions listed above for each additional Defendant on a separate page.

C. PREVIOUS LAWSUITS

1. Have you filed any other lawsuits while you were a prisoner? ☒ Yes ☐ No
2. If yes, how many lawsuits have you filed? 2. Describe the previous lawsuits: Loss of Toes
Mutilization or Damage to a toe. And put on Phyc Drugs without knowledge or
permission
be
 - a. First prior lawsuit:
 1. Parties: Spillard v. Ivers
 2. Court and case number: Northern District U.S. District Court #19-cv-01407-
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) still pending JST
 - b. Second prior lawsuit:
 1. Parties: SPILLARD v. HOFFMAN
 2. Court and case number: U.S. DISTRICT COURT NORTHERN DISTRICT #19-cv-01299-JST
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) Still pending
awaiting for trial
 - c. Third prior lawsuit:
 1. Parties: _____ v. _____
 2. Court and case number: _____
 3. Result: (Was the case dismissed? Was it appealed? Is it still pending?) _____

If you filed more than three lawsuits, answer the questions listed above for each additional lawsuit on a separate page.

1 Dr. Bick Adminastrater in Elk Grove was Head Doctor at CMF

2 Dr.Kethinel infectious Disease Doctor at SJGH

3 Dr. Brandon ER Doctor at SJGH in the ER

4 S. Gates Adminastrater at CCHCS in Elk Grove .

5 Unknown Nutritionist in Elk Grove Head of Nutrition for the CCHCS

6 Lt. Lira Mule Creek State Prison

7 Sgt. Snyder Mule Creek State Prison

8 Other unknown policy makers working for the CCHCS

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D. CAUSE OF ACTION

CLAIM I

1. State the constitutional or other federal civil right that was violated: My VIII and XIII th Amendments for Due Process. Also the 1st for Retaliation

2. **Claim I.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|---|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input checked="" type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim I. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

LVN Umanah said I threatened her (I DID NOT) and the perpondence of evidence proves this C/O Limon says in the report that I went striaght to pro programs then to my Block after C/O Harrington told me I was not getting my Blood Sugar Checked. I already turned LVN Umanah into the Nurseing Board for being unproffesional yelling at me to get the FUCK OUT the first time Months prior to this incedent. I 602 her two other times once for being a Racist. There were two other LVNs in the office with her and 6 C/Os within less than 20 feet from me. There were no witnesses at my ICC. Acting Captain Costa interviewed me. Her first question to me was do you remember me I said yes I have known her since 1983 and her whole family I dated her best friend for two years. Her name is nowhere on any report. And the intervi w I signed I put a commet on it the one I recieve says I refused to sign. I was in a wheelchair and there was no ADA shower so for over two months I did not get a Shower. Two weeks after being in AD-SEG I got aDiabetic Ulcer on my Right greater toe. It is still there and I am still in a wheelchair over this Retailitory Action. SGT Snyder should have never put me in AD-SEG.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).

First and Foremost I still have a whole in my toe for almost a year now. Second If this is allowed to continue I will never see the light of day because of a serious rule violation. I am sure that was Captain Costas intent.

5. **Administrative Remedies:**

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Claim I? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Claim I to the highest level? ☐ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. All three levels I have been deied, Rejected and Cancelled been to the third level twice now they just send it back but there 90 days have been up for a while

CLAIM II

1. State the constitutional or other federal civil right that was violated: VIII Amendment Refusing to treat my serious medical needs. Being deliberately indifferent to them.

2. Claim II. Identify the issue involved. Check only one. State additional issues in separate claims.

- | | | | |
|--|---|---|--|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input checked="" type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. Supporting Facts. State as briefly as possible the FACTS supporting Claim II. Describe exactly what each Defendant did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

While being in AD-SEG for retaliatory reasons Dr. Smith would not let RN Aust
ia. Give me a Bandage for my Diabetic Ulcer. And then said I refuse to see him.
When I refused it was because evry week a different doctor would see me. So
I said I would only go to TTA so I could see the same doctor .My toe has been
reinfectied 4 plus times now. Because of the CCHCS deliberite Indifference to
my Diabetis trying to treat my serious medical needs with antibiotics instead
of the High protien diet Carb Controlled diet that was ordered at Marin
General Hospital. During and after two toes being amputated and one being
butchered by a Podiatrist. That is the case thats in the Northern District
over the toes. I lowered my A1C by not eating dinner, Lunch and only the eggs,
I was on a prerenal Diet while at Mule Creek State Prison but when I arrived
at California Medical Facility they stoped that Diet and feed me all Carbs.
Dr. Bick says I don't qualify for any Diet. But even a layman knows that
a diabetic has to quit eating carbs thats all they feed me. I gained 40 LBs
since being here. The CCHCS is being deliberately indifferent to not only me
but all Diabetecs in the CDCR. Because they have Bastardised the Carb system.
By turning 20 Carbs in to 1 Carb Group this is in no Medical Jornal on the
planet and repeatedly telling me there are 300-400 Calories I don't have to eat
because there extra I don't eat the Bread and the Apples. Dr. Shute has ended
my wound care 4 times now causing infection to come back three times.

4. Injury. State how you were injured by the actions or inactions of the Defendant(s).

My right big Toe is not healing because of my Deliberate indifferent Doctor.
I have been in a wheelchair for over a year All Diabetic Meds say take with
a proper diet but the CCHCS has omitted it from the Medical papers. When in
every Hospital and Pharmacy on the planet Says take these meds with a proper
Diet that is deliberate indifference to my serious medical Needs. I can't Heal.

5. Administrative Remedies.

- a. Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? SQSP, MCSP, CMF multiple times in all ☒ Yes ☐ No
- b. Did you submit a request for administrative relief on Claim II? ☒ Yes ☐ No
- c. Did you appeal your request for relief on Claim II to the highest level? ☒ Yes ☐ No
- d. If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. I did I have but there are no remidy's in the CDCR

1 My Diabetes is a serious medical condition because I keep losing
2 toes and don't heal because of all the carbs I am being feed.
3 Also the CCHCS Heart Healty Diet is mostly wheat products. Wheat
4 products cause plaque in the viens witch hinders the blood flow
5 required to heal they took my prerenal diet that was just ok. But
6 atleast I could control my carb intake on it. Marin General Hosp-
7 tal ordered me a High Protien carb controled diet and so did my P
8 Podiatrist. I have only seen the Podiatrist once in over 2 Months
9 and Dr. Shute has let my wound care end without being HEALED 4 plus
10 times now. Three of them Causing reinfection. The list of her
11 deliberate indifference to my serious medical needs are in all the
12 602s I have filed. I have Filed a 602 almost evry 2 weeks for two
13 years now. Never having one granted even though I Keep Losing Toes
14 because of the CCHCS deliberate indifference to my Serious medical
15 needs.(Hence Losing Toes and being in a Wheelchair). I have had
16 every Doctor tell me that the First thing I should do is Control my
17 Carb intake except for a few in the CCHCS. The CCHCS has omitted
18 the Proper diet that all diabetec meds say to do. And omitted
19 the fact that wheat causes plaque in the Viens. My doctor was so
20 indifferent to my serious medical needs she never look at my toe
21 till I 602 it a couple of times three and a half months I was sent
22 to CMF because they raised my care from cronic care to High risk.
23 But my Level of Care went from Bad to Worse. I lost 45 LBs not
24 eating most of the food walking around dizzy or rolling. Since I got
25 to CMF I gain 40 of it back and my Doctor has not even notice. At
26 MCSP they took my Glucose meter when it was permanant. CCHCS wont
27 tell me who made that ruling or the Head Nutritionist is even
28 though I have 602 it. There is so much more !.

CLAIM III

1. State the constitutional or other federal civil right that was violated: VIII Amendment Cruel and Unusual punishment and the XIII amendment.

2. **Claim III.** Identify the issue involved. Check **only one**. State additional issues in separate claims.

- | | | | |
|--|--|---|---------------------------------------|
| <input type="checkbox"/> Basic necessities | <input type="checkbox"/> Mail | <input type="checkbox"/> Access to the court | <input type="checkbox"/> Medical care |
| <input type="checkbox"/> Disciplinary proceedings | <input checked="" type="checkbox"/> Property | <input type="checkbox"/> Exercise of religion | <input type="checkbox"/> Retaliation |
| <input type="checkbox"/> Excessive force by an officer | <input type="checkbox"/> Threat to safety | <input type="checkbox"/> Other: _____ | |

3. **Supporting Facts.** State as briefly as possible the FACTS supporting Claim III. Describe exactly what **each Defendant** did or did not do that violated your rights. State the facts clearly in your own words without citing legal authority or arguments.

While at San Quentin State Prison when I went out for my First Surgery while in Carson Unit they Lost all my pictures legal paper work and Phone numbers and addresses. when I got to Mule Creek State Prison SOSF lost my Property again I got one box back after 6 months. When I was Retaliated against by LVN and Costa They and the C/Os lost my property again and when I got to CMF I was still missing one box with all my Hygiene, Legal papers, Books, and some Tennis shoes I never got to wear, Sox Shirts. I took it to the third level many times one partial(I got one Box of my Property) And the Last time I went to the third Level they Just Never responded It's been over 90 days with a reminder.

4. **Injury.** State how you were injured by the actions or inactions of the Defendant(s).
Lost contact with my friends and family my Sons Pictures and some Friends Pictures. Evidence of my innocence and other Legal Papers. It took over 1 year for my big sister to find me.

5. **Administrative Remedies.**

- Are there any administrative remedies (grievance procedures or administrative appeals) available at your institution? ☒ Yes ☐ No
- Did you submit a request for administrative relief on Claim III? ☒ Yes ☐ No
- Did you appeal your request for relief on Claim III to the highest level? ☒ Yes ☐ No
- If you did not submit or appeal a request for administrative relief at any level, briefly explain why you did not. _____

If you assert more than three Claims, answer the questions listed above for each additional Claim on a separate page.

E. REQUEST FOR RELIEF

State the relief you are seeking:

I would like this SRV to be expunged from my record Completely
because if it does not I will never get out if my case is not overturned
it should be this year. I also would like to be paid for this retaliatory
Action against me. I am filing this Complaint against Captain Costa in
her Officail and unofficail capacity evrybody else just in there officail.
I want to be paid for the Cruel and Unusaul Punishment i have been induring
for the last year. My Information that been deliberately lost multiple times.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on 3/28/2020
DATE


SIGNATURE OF PLAINTIFF

(Name and title of paralegal, legal assistant, or
other person who helped prepare this complaint)

(Signature of attorney, if any)

(Attorney's address & telephone number)

ADDITIONAL PAGES

All questions must be answered concisely in the proper space on the form. If you need more space you may attach more pages, but you are strongly encouraged to limit your complaint to twenty-five pages. If you attach additional pages, be sure to identify which section of the complaint is being continued and number all pages. Remember, there is no need to attach exhibits to your complaint.

1 I also want a good doctor CMF refuses to change my BAD Doctor SHUTE
2 and I ask for any Doctor. A proper diet for my serious medical con-
3 dition so I can heal in a timely manner. The Podiatrist in Sacramento
4 named Mc Gibbins that I was seeing.

Case Name: SPILLARD V. COSTA
Case Number: _____
Court: EASTERN DISTRICT U.S. DISTRICT COURT

PROOF OF SERVICE BY MAIL

I, EVERETT L. SPILLARD II declare:

That I am over the age of eighteen years of age and am not a party to the above entitled cause of action.
That I reside in Solano County, California at the California Medical Facility, at 1600 California Drive, P.O. Box 2500, Vacaville, California, 95696-2500.

That on 3/28/2020 I served the attached: a true copy of the attached:
ADA 1983 CIVIL RIGHTS COMPLAINT

by placing a true copy thereof enclosed in a sealed envelope with postage thereon fully prepaid, in the internal legal mail collection system at the California Medical Facility, Vacaville, California, addressed as follows:


U.S. DISTRICT COURT EASTERN DISTRICT OF CALIFORNIA
501 I Street. Room 4-200 Sacramento, CA 95814

EVERETT L. SPILLARD II CMF Vacaville, CA 95696 P.O.Box 2500 U-101

I declare under penalty of perjury and under the laws of the State of California that the foregoing is true and correct. That this proof of service was executed on 3/28/2020 at the California Medical Facility, Vacaville, California.

Everett L. Spillard II

Declarant



Declarant's Signature